Remarks

Claims 1-25 are pending in the subject application. By this amendment, applicants have amended claim 5, added new claims 26-28, and canceled claims 21-25 without disclaimer or prejudice. Support for new claims 26-28 can be found in the specification as filed, *inter alia*, on page 15 line 16 to page 16 line 3. No issue of new matter is raised by the amendment to claim 5 or the addition of new claims 26-28. Accordingly, applicants respectfully request entry of this amendment.

Restriction Requirement:

In the November 13, 2006 Office Action, the Examiner required restriction under 35 U.S.C. §121 of pending claims 1-25 to one of the following inventions:

I. Claims 1-3, 6-8, 11, drawn to methods of treatment comprising administering inhibitors of human MKLP1, wherein the inhibitor is an antibody, classified in class 514, subclass 1.

II. Claims 1, 2, 4, 6, 7, 9, and 11, drawn to methods of treatment comprising administering inhibitors of human MKLP1, wherein the inhibitor is an antisense oligonucleotide comprising SEQ ID:NO3, classified in class 514, subclass 44.

III. Claims 1, 2, 5-7, 10, and 11, drawn to methods of treatment comprising administering inhibitors of human MKLP1, wherein the inhibitor is an siRNA oligonucleotide comprising the sequence of SEQ ID NO:4, classified in class 514, subclass 44.

IV. Claims 12 and 14, drawn to an antisense oligonucleotide comprising SEQ ID NO:3 and vectors thereof, classified in class 536, subclass 24.5.

V. Claims 13 and 14, drawn to an siRNA oligonucleotide comprising the sequence of SEQ ID NO:4 and vectors thereof, classified in class 536, subclass 24.5.

VI. Claims 15 and 19, drawn to methods comprising comparing levels of MKLP1 polypeptide between healthy subjects and those having

an apoptosis related disease, wherein low levels of MKLP1 polypeptide indicate the susceptibility to chemotherapeutic treatment, classified in class 435, subclass 4.

VII. Claims 16 and 20, drawn to methods comprising comparing levels of MKLP1 polypeptide between healthy subjects and those having an apoptosis related disease, wherein low levels of MKLP1 polypeptide indicate the susceptibility to chemotherapeutic treatment, classified in class 435, subclass 6.

VIII. Claim 17, drawn to methods comprising determining the level of MKLP1 polypeptide before treatment and after treatment to determine the efficacy of chemotherapeutic treatment on the subject, classified in class 435, subclass 4.

IX. Claim 18, drawn to methods comprising determining the level of MKLP1 mRNA before treatment and after treatment to determine the efficacy of chemotherapeutic treatment on the subject, classified in class 435, subclass 6.

X. Claims 21-25, drawn to methods of obtaining a compound which inhibits MKLP1 polypeptide in cells, classified in class 435, subclass 4.

On page 3 of the November 13, 2006 Office Action, the Examiner alleged that inventions IV and V are related as product and process of use to those of II and III respectively. The Examiner alleged that in the instant case, the antisense and siRNA oligos of groups IV and V can be used in methods of inhibiting MKLP1 in vitro. The Examiner furthermore alleged that because the keyword searches return different bodies of art, the searches are divergent and non-

coextensive, and therefore it is a burden to search for such multiple inventions in a single application.

On page 4 of the November 13, 2006 Office Action, the Examiner alleged that with the exception of the relationships previously defined, the inventions of Groups I-X are directed to related processes or products. The Examiner alleged that in the instant case, each group is considered mutually exclusive of any other group, and is not considered an obvious variant of one another, since each group utilizes a different inhibitor type or a different starting compound such as mRNA or a polypeptide, or has unique steps which are not shared by any other group as defined in the Group listings provided above. The Examiner furthermore alleged that because the keyword searches return different bodies of art, the searches are divergent and non-coextensive, and it is a burden to search for such multiple inventions in a single application.

In response, the applicants hereby elect, with traverse, the invention identified by the Examiner as Group III, i.e. claims 1, 2, 5-7, 10, and 11, directed to methods of treatment of an apoptosis related disease in a subject, comprising administering to the subject an inhibitor of the MKLP1 polypeptide, wherein the inhibitor is an siRNA comprising consecutive nucleotides, the sequence of which is set forth in SEQ ID NO:4. Applicants elect as a species an siRNA, the sequence of which is set forth in SEQ ID NO:4.

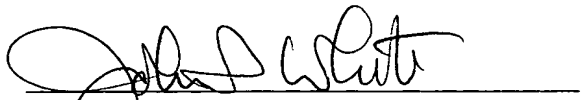
In addition, the applicants respectfully request that the Examiner reconsider the restriction requirement as between Groups I, II and III. Under MPEP §803, there are two criteria for a proper restriction requirement: 1) the invention must be independent or

distinct; and 2) there must be a serious burden on the Examiner if restriction is required. MPEP §803 provides that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent and distinct inventions." Under M.P.E.P. §802.01, "independent" means that there is no disclosed relationship between the subjects disclosed. Applicants respectfully submit that there would not be a serious burden on the Examiner if restriction is not required between Groups I, II and III, in view of the Examiner's comment that restriction between Groups I, II and III would be withdrawn upon allowance of claim 1, which is a linking claim.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee, other than the enclosed surcharge of $510.00 fee for a three-month extension of time, is deemed necessary in connection with the filing of this amendment. If any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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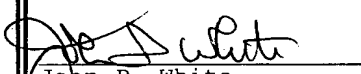

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Date